Supreme Court, U. S.
FILED
DEC 6 1980
MICHAEL RODAK, JR., CLERK

No. 80-613

IN THE

Supreme Court of the United States

OCTOBER TERM, 1980

SHOSHONE and ARAPAHOE TRIBES,
Petitioners

v.

DRY CREEK LODGE, INC., *et al.*
Respondents

OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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October 1980

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QUESTION PRESENTED FOR REVIEW

Is the Court of Appeals' Decision consistent with the provisions of the Treaty of 1868?

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OPPOSITION TO A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE TENTH CIRCUIT

The Respondents, Dry Creek Lodge, Inc., Albert C. Cook; Elizabeth P. Cook; the Estate of Thomas C. Burlingham; Benjamin Miller; Bernice Miller; Robert Miller; and David Miller respectfully file their opposition to the Petitioners' Application for a Writ of Certiorari in this case. 1/

1/ During these proceedings, Thomas Burlingham died and Albert C. Cook as executor of his estate, has been substituted as a party herein.

STATEMENT OF THE CASE IN OPPOSITION

History of this Reservation

1. The Wind River Reservation was created by the Treaty of 1868. The original boundaries comprised about 2,300,000 acres.

2. Since the establishment of this Reservation, Congress has periodically opened up the Reservation until today substantial tracts of non-Indian land exist. There are now "many more non-Indians than Indians living within the boundaries". (Pet. App. A p. 2a)

3. In 1905, the Tribes ceded outright to the United States about one-half of their Reservation for homesteading. These lands were, by Act of Congress, opened up to public entry. Act of March 3, 1905, 33 *Stat.* 1016. In 1939, those lands which had not been sold were given back to the Tribes. 53 *Stat.* 1128. The Reservation has been substantially diminished.

4. As a result, now included within the original boundaries of the Reservation is the City of Riverton with a population of in excess of 12,000 people. Other non-Indian cities and towns exist within the "original" boundaries. (Pet. App. A). Some 6,000 Indians reside on the Reservation. About 42,000 non-Indians reside in Fremont County or near the Reservation. 2/

2/ *Stipulated Facts.* Civil No. C79-267, District of Wyoming, 1979. This Reservation, as it is now sturctured, very much resembles the one in *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191, where this Court observed, " . . .today, many reservations, including Port Madison Reservation, have extensive non-Indian populations. The percentage of non-Indian residents grew as a direct and intended result of congressional policies in the late 19th and early 20th centuries promoting the assimilation of the Indians into the non-Indian culture. Respondents point to no statute, in comparison to the Western Territory Bill, where Congress has intended to give Indian Tribes jurisdiction today over non-Indians residing within Reservations. (Fn. 13 – Opinion)

Background of this Case

This case comes before the Court in a unique posture. The contentions of the Respondents as original plaintiffs are not premised upon factual speculation. A jury has found, upon trial of the merits, that Respondents' civil rights were in fact violated by the actions of the Tribes and a verdict entered. 3/

The factual scenario here created by the petitioners was previously presented to a trial jury and rejected. The Respondents' proof as accepted by the jury and presented to the Court of Appeals develops into this picture: 4/

1. Dry Creek is a small ranch sitting on fee patented land within the original boundaries of the Wind River Reservation located in Central Wyoming. The patent issued by the United Stated and dated in 1924 was unrestricted as to the use of the land. No provision was expressly made in the patent for ingress and egress to this isolated tract of land.

2. There is a single road providing ingress and access to the ranch property. This road has been used as such for over eighty years by the various inhabitants of the tract of land, both Indian and non-Indian. No formal right-of-way or government easement has ever existed along this road for any landowner, Indian or non-Indian, and none has ever been required since the Treaty of 1868. Excepting for power lines, canals and secondary highways, few, if any, Bureau of Indian Affairs rights-of-way have been required or granted on this Reservation.

3/ The Petitioners' reliance upon Judge Kerr's original *Findings of Fact* (cited as "Tr. Inj.") is misplaced as these findings were set aside in the first appeal in this case at 515 F. 2d 926 as the result of a "summary trial" in violation of Rule 56, FRCP. At trial, the Tribes did not request any special findings by the jury.

4/ These representations of fact were not traversed by the Tribes when presented to the Court of Appeals. The Opinion below reports these operative facts. (See Pet. App. A).

3. Albert C. Cook and Elizabeth P. Cook purchased their property in 1965. They are non-Indians. In 1973, they conceived the idea of building a small guest ranch on their land designed to provide employment for their Indian ranch hands and to provide a place for their friends and guests to come and visit. The Cooks, at the outset, presented their plans to the Superintendent of the Reservation who approved them and encouraged the Cooks to proceed. The Cooks were advised by the Superintendent that they didn't need to obtain a formal right-of-way from the Bureau of Indian Affairs inasmuch as projects of this type provided for employment for Indians and there would be no problem with access along the road.

4. The Cooks then approached the Small Business Administration for a loan to build up the ranch. The Small Business Administration made Liaison with the Bureau of Indian Affairs and received the same assurances from the Superintendent concerning the proposed lodge business and right-of-way. A loan of $245,000.00 was approved.

5. The Federal Government subsequently issued a *Federal Trader's License* which specifically licensed and authorized the Cooks to build Dry Creek Lodge on their property and operate it as a guest ranch. 5/

6. The Bonatsie family are enrolled Indians of the Shoshone Tribe. In various percentages, they own minority and inheritance expectancy interests in a series of land allotments across which the access road must pass. At one section corner, the old road crosses an allotment in which the Bonatsie family owned a majority interest. 6/

5/ Throughout this protracted litigation, the Federal License has never been revoked or rescinded.

6/ The remainder of the interests were in various fractions of heirship among other Indian estates and not all members of the Bonatsie family. A majority of those other interest holders gave their consent to the project and use of the access road.

7. Construction was then commenced by the Cooks on their lodge. Contractors and workers, both Indian and non-Indian, used the road daily crossing the corner of the Bonatsie allotment without question or interference. Indian people helping build the lodge and who were to be employed there as guides established their homes on the ranch and moved their families in. No objection had been herd from anyone until the loan monies had been substantially expended and the grand opening of the lodge was imminent.

8. On May 18, 1974, many people were invited to the opening of this small lodge. It was upon this opportunity that the Bonatsie family approached the Tribal Council and demanded that this road be closed, the lodge be shut down, and the Cooks be driven from their private property and the Reservation. 7/ The Tribal Council passed an ordinance directing the government to close the road as a result of the Bonatsies' request.

9. The Bureau of Indian Affairs Superintendent was present at the Council meeting and acted in accordance with their wishes. Notwithstanding his earlier approval of the lodge and licensing of same, the Superintendent directed his agents to carry out the wishes of the Tribes and close the road with a barricade to maroon the occupants at the lodge. The barricade was maintained by force of arms. The Superintendent asked permission to call the United States Attorney for advice but was persuaded by the Tribal attorneys from Washington not to utilize the courts to affect the Tribes' goal. The Superintendent acquiesced and ordered his armed agents, along with Tribal police officers, to immediately close the ranch.

7/ **The Transcript of this proceeding is provided for the Court's scrutiny as Appendix B. The Court will readily see, as did the jury, that the intent of the Joint Business Council and the Tribes was to not only stop the use of this road, but to utilize this mechanism to drive the Cooks from the Reservation. This was done upon advice of counsel as is clearly shown in the Transcript.**

All of the people there, including women and children, were told they could not leave the ranch as that was the order of the Tribal Council. No legal process was obtained.

10. As a result, the Cooks and the Indian employees and little children trying to go to school were barricaded by force of arms in their 160 acres of land. Only by operation of law and process obtained by the Cooks in a peaceful manner from Judge Kerr and the issuance of the temporary restraining order was this road opened in an orderly manner.

11. The Appellant Dry Creek's initial request was for a temporary restraining order and equitable relief by way of injunction to keep the road open and get the children out to school with access maintained. The trial court initially dismissed this case for lack of Federal jurisdiction. The Tribes' argument made at that time was that there was a forum available with the Court of Indian Offenses.

12. The Tribal Judge, Lawrence Miller, was approached to take jurisdiction of the matter in order to keep the peace and determine the access issue created by the armed barricade. The Tribal Judge indicated an initial willingness to attempt a hearing if the Tribes would consent to his jurisdiction as required by the Federal Regulations. 8/ No consent was given. Judge Miller later advised that he feared his job would be lost if he heard a case involving the Tribal Council. 9/ The Tribal forum, if there was one, was denied.

13. With the attempt to use both the Federal and Tribal

8/ This Reservation has what is known as a Court of Indian Offenses which operates under 25 C.F.R. 11.22 et seq. A suit against the Tribes can only be entertained by stipulation.

9/ An attempt was later made by the Tribal Council to have Judge Miller fired because he even considered taking jurisdiction of this matter.

Courts thwarted, the Appellants, Dry Creek, then requested the State Court to take jurisdiction of the matter. These State actions were met with writs of prohibition, motions to dismiss and removed to the Federal Court where they were in fact dismissed for lack of jurisdiction.

14. The Court of Appeals, in its first decision, directed a Federal forum on the constitutional issue. 515 F. 2d 926 (10th Cir. 1975).

15. A jury trial on the merits was finally held in May of 1977 and lasted almost a month. The jury, upon the entire evidence prepared and presented, returned a verdict on the merits in favor of the plaintiffs.

16. The Trial Judge instructed the jury, as a matter of law, that the Respondents had a right to use the road. (Transcript of Jury Trial Instruction, May 21, 1977, C74-74A).

17. During the past trial proceedings, this Court decided *Santa Clara v. Martinez,* 436 U.S. 49 (1978). Upon motion of the Tribes, the District Court then dismissed the case for lack of Federal jurisdiction. The Court of Appeals reversed and it is from this decision that Petitioners' request that Certiorari be granted. The Respondents respectfully oppose.

ARGUMENT

The Decision of the Court of Appeals is Consistent With The Treaty of 1868 Which Provides for Recourse When Deprivations Are Committed.

1. A basic principal long recognized by this Court is that all aspects of Tribal sovereignty including common-law immunity from suit is subject to the superior and plenary control of Congress. *Santa Clara Pueblo v. Martinez,* 436 U.S. 49, 58 (1980). **Congress may limit Tribal Sovereignty by exercise of its commerce clause powers and/or treaty-making powers.** *Worcester v. Georgia,* 31 U.S. 350, 368 (1832); see also *F. Cohen Handbook of Federal Indian Law* 122 (University of New Mexico Edition). (emphasis supplied).

2. The Court of Appeals sustains a cause of action against the Tribes in a Federal forum to consider a claim for a constitutional depredation committed by the Indian Tribes. The depredation is founded in the restraint of liberty without process and denial of equal protection of the law. The *Indian Civil Rights Act*, 25 U.S.C. 1302(8), places the burden of any such deprivation upon the shoulders of the Tribal government. As pertains to this Reservation, Congress has simply restated an underlying provision of the Treaty of 1868. The Tenth Circuit Opinion recognizes and gives effect to the same provision. In cases such as this, the Treaty expressly directs a damage remedy against the Tribes: Article I paragraph 3 reads:

> "If bad men among the Indians shall commit a wrong or **depredation** upon the person or property of any one white, black, or Indian, subject to the authority of the United States, and at peace therewith, **the Indians herein** solemnly **agree** that they will, on proof made to their agent and notice by him, deliver up the wrongdoer to the United States, to be tried and punished according to the laws; and in case they wilfully refuse so to do, **the person injured shall be re-imbursed for his loss from the annuities or other moneys due or to become due to them under this or other treaties made with the United States.** And the President, on advising with the Commissioner of Indian Affairs, shall prescribe such rules and regulations for ascertaining damages under the provisions of this article as in his judgment may be proper. But no such damages shall be adjusted and paid until thoroughly examined and passed upon by the Commissioner of Indian Affairs, and no one sustaining loss while violating or because of his violating the provisions of this treaty or the laws of the United States shall be reimbursed therefor."
>
> (Treaty of 1868) 15 *Stat.* 673 (emphasis supplied). Treaty is attached as Appendix A.

3. This Treaty was ratified by the Congress in 1869. A Federal remedy is specifically provided. Any Tribal immunity is expressly waived. The Court of Appeals' decision to afford a Federal forum in a constitutional case to deter-

mine the merits of a civil rights claim and the measure of damages is not only a proper result but one mandated by the terms of the Treaty itself. *(Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388, 91 S. Ct. 1999, 29 L. Ed 2d 619 (1971); *Bell v. Hood*, 327 U.S. 678, 66 S. Ct. 773, 90 L.Ed 939 (1946). In the *Indian Civil Rights Act*, 25 U.S.C. 1302(8), Congress and this Court have restated the pre-existing guarantees of the Treaty. *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978); *Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1978). 10/ If the Tribes and any Tribal member commit a depredation of the rights of another, the Tribe is liable for any damage caused and must compensate the injured party for his damage. The Treaty so provides. The Tribal immunity is expressly waived. Such was not the case in *Santa Clara*.

4. The facts of this case show no Tribal or State forum. The unavailability of the Tribal Court was a cornerstone of *Santa Clara*. There is no Tribal Court Jurisdiction in a *Court of Indian Offenses* on this Reservation over the Tribes. 11/ 25 C.F.R. *Indians* § 11.22. The State actions were removed and then dismissed. The Court of Appeals sustained a Federal forum in a case involving invasion of a civil right, i.e. personal liberty. Such a philosophy is consistent with *Oliphant*, supra, where the fundamental proposition is stated:

> "But, from the formation of the Union and the adoption of the Bill of Rights, the United States has manifested in equally great solicitude that its citizens be protected by the United States from unwarranted intrusions upon the personal liberty." *Oliphant v. Suquamish Indian Tribes*, 435 U.S. 191 (1978).

10/ The Tribes' counsel, in the Trial Court, submitted that there is no Tribal forum here.

11/ The Treaty likewise allows Indians to assert claims for damage for depredations by non-Indians. It would be interesting to know how many claims the Tribes have filed over the years asserting this type of provision.

5. In the instant case, the jury found that the actions of individual Indians and the Tribes were a violation of the Constitution and laws of the United States. Therefore, under the provisions of the Treaty of 1868, the injured people (i.e. Cooks) were entitled to be reimbursed for their losses. The Tenth Circuit's Decision does precisely that and nothing more. The Circuit is correct and consistent.

6. Petitioners' suggestion that the Court of Appeals' decision is an infringement upon Congress' authority to define Tribal immunity is in error. To the contrary, the Petitioners now ask this Court to infringe on that congressional authority. Congress has not passed any laws which indicate any intention whatsoever of changing the Treaty of 1868.

7. The Petitioners rely on *Santa Clara*, supra, to escape accountability for their conduct. The Court of Appeals limited *Santa Clara* to internal Tribal affairs. There was no express remedy in *Santa Clara* providing damages against the Tribe or waiving Tribal sovereign immunity. Here, the Treaty of 1868 controls and expressly denotes a damage remedy to be paid by the Tribes for deprivations. The jury found a deprivation of Civil Rights and *Santa Clara* does not apply to these facts.

CONCLUSION

This case does not require this Court to reopen the issue of whether or not the *Indian Civil Rights Act* constitutes a waiver of Tribal immunity and allows a damage remedy. Here, the Treaty of 1868 expressly creates a substantive right and a remedy against the Tribes and expressly provides for damages to be paid by the Tribes. The Court of Appeals' decision is consistent with the Treaty and subsequent laws and should be sustained.

The Petition for a Writ of Certiorari should be denied.

Respectfully submitted,

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October 1980

CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of November, 1980, I served the foregoing OPPOSITION TO PETITION FOR WRIT OF CERTIORARI by mailing three copies, first-class postage prepaid, to each of the following:

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Appendices

TREATY WITH THE EASTERN SHOSHONI AND BANNOCK, 1868

July 3, 1868.
15 Stat. 673.
Ratified Feb. 26, 1869.
Proclaimed Feb. 24, 1869.

Articles of a treaty made and concluded at Fort Bridger, Utah Territory, on the third day of July, in the year of our Lord one thousand eight hundred and sixty-eight, by and between the undersigned commissioners on the part of the United States, and the undersigned chiefs and head-men of and representing the Shoshonee (eastern band) and Bannack tribes of Indians, they being duly authorized to act in the premises:

Peace and friendship.

ARTICLE 1. From this day forward peace between the parties to this treaty shall forever continue. The Government of the United States desires peace, and its honor is hereby pledged to keep it. The Indians desire peace, and they hereby pledge their honor to maintain it.

Offenders among the whites to be arrested and punished

If bad men among the whites, or among other people subject to the authority of the United States, shall commit any wrong upon the person or property of the Indians, the United States, will, upon proof made to the agent and forwarded to the Commissioner of Indian Affairs, at Washington City, proceed at once to cause the offender to be arrested and punished according to the laws of the United States, and also re-imburse the injured person for the loss sustained.

Among the Indians to be given up to the United States, etc.

If bad men among the Indians shall commit a wrong or depredation upon the person or property of any one, white, black, or Indian, subject to the authority of the United States, and at peace therewith, the Indians herein named solemnly agree that they will, on proof made to their agent and notice by him, deliver up the wrong-doer to the United States, to be tried and punished according to the laws; and in case they wilfully refuse so to do, the person injured shall be re-imbursed for his loss from the annuities or other moneys due or to become due to them under this or other treaties made with the United States. And the

Rules for ascertaining damages.

President, on advising with the Commissioner of Indian Affairs shall prescribe such rules and regulations for ascertaining damages under the provisions of this article as in his judgment may be proper. But no such damages shall be adjusted and paid until thoroughly examined and passed upon by the Commissioner of Indian Affairs, and no one sustaining loss while violating or because of his violating the provisions of this treaty or the laws of the United States, shall be reimbursed therefor.

Reservation.

ARTICLE 2. It is agreed that whenever the Bannacks desire a reservation to be set apart for their use, or whenever the President of the United States shall deem it advisable for them to be put upon a reservation, he shall cause a suitable one to be selected for them in their present country, which shall embrace reasonable portions of the "Port Neuf" and "Kansas Prairie" countries, and that, when this reservation is declared, the United States will secure to the Bannacks the same rights and privileges therein, and make the same and like expenditures therein for their benefit, except the agency-house and residence of agent, in proportion to their numbers, as herein provided for the Shoshonee reservation. The United States further agrees that the following district of country, to wit: Commencing at the mouth of Owl Creek and running due south to the crest of the divide between the Sweetwater and Papo Agie Rivers; thence along the crest of said divide and the summit of Wind River Mountains to the longitude of North Fork of Wind River; thence due north to mouth of said North Fork and up its channel to a point twenty miles above its mouth; thence in a straight line to head-waters of Owl Creek and along middle of channel of Owl Creek to place of beginning, shall be and the same is set apart for the absolute and undisturbed use and occupation of the Sho-

Boundaries.

shonee Indians herein named, and for such other friendly tribes or individual Indians as from time to time they may be willing, with the consent of the United States, to admit amongst them; and the United States now solemnly agrees that no persons except those herein designated and authorized so to do, and except such officers, agents, and employes of the Government as may be authorized to enter upon Indian reservations in discharge of duties enjoined by law, shall ever be permitted to pass over, settle upon, or reside in the territory described in this article for the use of said Indians, and henceforth they will and do hereby relinquish all title, claims, or rights in and to any portion of the territory of the United States, except such as is embraced within the limits aforesaid.

Who not to reside thereon.

Buildings to be erected by the United States.

ARTICLE 3. The United States agrees, at its own proper expense, to construct at a suitable point of the Shoshonee reservation a warehouse or store-room for the use of the agent in storing goods belonging to the Indians, to cost not exceeding two thousand dollars; an agency building for the residence of the agent, to cost not exceeding three thousand; a residence for the physician, to cost not more than two thousand dollars; and five other buildings, for a carpenter, farmer, blacksmith, miller, and engineer, each to cost not exceeding two thousand dollars; also a school-house or mission building so soon as a sufficient number of children can be induced by the agent to attend school, which shall not cost exceeding twenty-five hundred dollars.

Mills.

The United States agrees further to cause to be erected on said Shoshonee reservation, near the other buildings herein authorized, a good steam circular-saw mill, with a grist-mill and shingle-machine attached, the same

to cost not more than eight thousand dollars.

Reservation to be permanent home of Indians.

ARTICLE 4. The Indians herein named agree, when the agency house and other buildings shall be constructed on their reservations named, they will make said reservations their permanent home, and they will make no permanent settlement elsewhere; but they shall have the right to hunt on the unoccupied lands of the United States so long as game may be found thereon, and so long as peace subsists among the whites and Indians on the borders of the hunting districts.

Agent to make his home and reside where.

ARTICLE 5. The United States agrees that the agent for said Indians shall in the future make his home at the agency building on the Shoshonee reservation, but shall direct and supervise affairs on the Bannack reservation; and shall keep an office open at all times for the purpose of prompt and diligent inquiry into such matters of complaint by and against the Indians as may be presented for investigation under the provisions of their treaty stipulations, as also for the faithful discharge of other duties enjoined by law. In all cases of depredation on person or property he shall cause the evidence to be taken in writing and forwarded, together with his finding, to the Commissioner of Indian Affairs, whose decision shall be binding on the parties to this treaty.

Heads of families desiring to commence farming may select lands, etc.

ARTICLE 6. If any individual belonging to said tribes of Indians, or legally incorporated with them, being the head of a family, shall desire to commence farming, he shall have the privilege to select, in the presence and with the assistance of the agent then in charge, a tract of land within the reservation of his tribe, not exceeding three hundred and twenty acres in extent, which tract so selected, certified, and recorded in the "land-book," as herein directed, shall cease to be held in common, but the same may be oc-

Effect of such selection.

cupied and held in the exclusive possession of the person selecting it, and of his family, so long as he or they may continue to cultivate it.

Persons not heads of families.

Any person over eighteen years of age, not being the head of a family, may in like manner select and cause to be certified to him or her, for purposes of cultivation, a quantity of land not exceeding eighty acres in extent, and thereupon be entitled to the exclusive possession of the same as above described. For each tract of land so selected a certificate, containing a description thereof, and the name of the person selecting it, with a certificate indorsed thereon that the same has been recorded, shall be delivered to the party entitled to it by the agent, after the same shall have been recorded by him in a book to be kept in his office subject to inspection, which said book shall be known as the "Shoshone (eastern band) and Bannack land-book."

Certificates of selection to be delivered, etc., to be recorded.

Survey.

The President may at any time order a survey of these reservations, and when so surveyed Congress shall provide for protecting the rights of the Indian settlers in these improvements, and may fix the character of the title held by each. The United States may pass such laws on the subject of alienation and descent of property as between Indians, and on all subjects connected with the government of the Indians on said reservations, and the internal police thereof, as may be thought proper.

Alienation and descent of property.

Children between 6 and 16 to attend school.

ARTICLE 7. In order to insure the civilization of the tribes entering into this treaty, the necessity of education is admitted, especially of such of them as are or may be settled on said agricultural reservations, and they therefore pledge themselves to compel their children, male and female, between the ages of six and sixteen years, to attend school; and it is hereby made the duty of the agent

Duty of agent.

for said Indians to see that this stipulation is strictly complied with; and the United States agrees that for every thirty children between said ages who can be induced or compelled to attend school, a house shall be provided and a teacher competent to teach the elementary branches of an English education shall be furnished, who will reside among said Indians and faithfully discharge his or her duties as a teacher. The provisions of this article to continue for twenty years.

Schoolhouses and teachers.

Seeds and agricultural implements.

ARTICLE 8. When the head of a family or lodge shall have selected lands and received his certificate as above directed, and the agent shall be satisfied that he intends in good faith to commence cultivating the soil for a living, he shall be entitled to receive seeds and agricultural implements for the first year, in value one hundred dollars, and for each succeeding year he shall continue to farm, for a period of three years more, he shall be entitled to receive seeds and implements as aforesiad in value twenty-five dollars per annum.

Instructions in farming.

And it is further stipulated that such persons as commence farming shall receive instructions from the farmers herein provided for, and whenever more than one hundred persons on either reservation shall enter upon the cultivation of the soil, a second blacksmith shall be provided, with such iron, steel, and other material as may be required.

Second blacksmith.

Delivery of articles in lieu of money and annuities.

ARTICLE 9. In lieu of all sums of money or other annuities provided to be paid to the Indians herein named, under any and all treaties heretofore made with them, the United States agrees to deliver at the agency-house on the reservation herein provided for, on the first day of September of each year, for thirty years, the following articles, to wit:

Clothing, etc.

For each male person over fourteen years of age, a suit of good substantial woollen

clothing, consisting of coat, hat, pantaloons, flannel shirt, and a pair of woollen socks; for each female over twelve years of age, a flannel skirt, or the goods necessary to make it, a pair of woollen hose, twelve yards of calico; and twelve yards of cotton domestics.

For the boys and girls under the ages named, such flannel and cotton goods as may be needed to make each a suit as aforesaid, together with a pair of woollen hose for each.

Census.

And in order that the Commissioner of Indian Affairs may be able to estimate properly for the articles herein named, it shall be the duty of the agent each year to forward to him a full and exact census of the Indians, on which the estimate from year to year can be based; and in addition to the clothing herein named, the sum of ten dollars shall be annually appropriated for each Indian roaming and twenty dollars for each Indian engaged in agriculture, for a period of ten years, to be used by the Secretary of the Interior in the purchase of such articles as from time to time the condition and necessities of the Indians

May be changed.

may indicate to be proper. And if at any time within the ten years it shall appear that the amount of money needed for clothing under this article can be appropriated to better uses for the tribes herein named, Congress may by law change the appropriation to other purposes; but in no event shall the amount of this appropriation be withdrawn or discontinued for the period named. And the President shall annually detail an officer of the Army to be present and attest the delivery of all the goods herein named to the Indians, and he shall inspect and report on the quantity and quality of the goods and the manner of their delivery.

Army officer to attest delivery of goods, etc.

Physician, teachers, carpenter, etc.

ARTICLE 10. The United States hereby agrees to furnish annually to the Indians the physician, teachers, carpenter, miller, engi-

neer, farmer, and blacksmith, as herein contemplated, and that such appropriations shall be made from time to time, on the estimates of the Secretary of the Interior, as will be sufficient to employ such persons.

Cession of reservation not to be valid unless, etc.

ARTICLE 11. No treaty for the cession of any portion of the reservations herein described which may be held in common shall be of any force or validity as against the said Indians, unless executed and signed by at least a majority of all the adult male Indians occupying or interested in the same; and no cession by the tribe shall be understood or construed in such manner as to deprive without his consent, any individual member of the of the tribe of his right to any tract of land selected by him, as provided in Article 6 of this treaty.

Presents for most valuable crops.

ARTICLE 12. It is agreed that the sum of five hundred dollars annually, for three years from the date when they commence to cultivate a farm, shall be expended in presents to the ten persons of said tribe who, in the judgment of the agent, may grow the most valuable crops for the respective year.

ARTICLE 13. It is further agreed that until such time as the agency-buildings are established on the Shoshonee reservation, their agent shall reside at Fort Bridger, U.T., and their annuities shall be delivered to them at the same place in June of each year.

JOINT BUSINESS COUNCIL

May 18, 1974

Chairman. . . . . Jesse Miller
Secretary. . . . . Barbara Roberts

(Chairman: I'll read these letters we have from Legal Services to the Joint Business Council:

"May 6th

Reference: Ben Miller's Guide Application

Dear Sirs:

I have sent a letter requesting a meeting with the Fish and Game Committee, Shoshone and Arapahoe Tribes. I am doing so for several reasons, primarily, however, because of the apparent refusal of that committee to meet with Mr. Miller and myself and discuss the failure of that committee to give approval of the license, and the failure of the Council to intercede and require that meeting to be held.

If a meeting and hearing is not held at which Mr. Miller, myself, and all interested parties may appear, then in order to protect Mr. Miller's rights as an enrolled member of the Arapahoe Tribe, legal action may very well ensue.

And this is another one:

Marvin Sonosky: Who signed it?)*

*Note: All material within parentheses was deleted from provided transcript.

(Chairman: Denhardt. Robert B. Denhardt. Another one from Mr. Denhardt. They're both dated the same day. It says:

"Dear Sir:

I have twice requested that Ben Miller and myself appear before the Fish and Game Committee concerning the committee's failure to act on Mr. Miller's Guide License Application and today's action by the Committee has caused this letter to issue; i.e. the failure of the Committee to meet with us even though we have been on the agenda.

If we are not afforded an oportunity for hearing before you on or before the 22nd day of May, 1974, then apparently you will leave us with no alternative but to institute legal action in order to cause you to meet with us.

Robert B. Denhardt."

We met with Al Cook here on, uh, the 17th day of April in regards to this. And to me his contract with Mr. Ben Miller is probably legal and binding as far as they are concerned, but to me, I don't think it's binding as far as the Arapahoe and Shoshone Council because they have not, as far as I am concerned, proved that the outfit belongs to Ben Miller.

Marvin Sonosky: May I ask what the contract was? What did the contract provide? Do you have a copy?

? No)*

*Note: All material within parentheses was deleted from provided transcript.

(Alfred Ward (?) Mr. Chairman....He said he would have it here. He has the contract. (indiscernible)

Chairman: Denhardt said that?

Alfred Ward: (?) No, Mr. Underwood.

Clyde Hobbs: (?) Underwood's sick.

Chairman: Keep, do you have a copy of that letter?

Archie Keep: No, I don't have a copy of it. Mr. Chairman, I think I told Vince to try to have that, all of that material here so we could, you know, look into it. I think the contract is in the file over there...in regards to this.

Marvin Sonosky: Do you know what the contract provides?

Chairman: Yes. It provides Ben Miller with the equipment and stuff to operate an outfitter....

Marvin Sonosky: I mean what does Cook give Ben Miller?

Chairman: 400 a month.

Marvin Sonosky: And Ben Miller is supposed to provide all the, uh, equipment?

Chairman: That's right.

Marvin Sonosky: And, uh, and, uh, and he's working for Cook at 400 a month. He's providing all the...the investment for the equimpent and all that.

Chairman: This is what it's supposed to be.

Marvin Sonosky: Horses....)*

*Note: All material within parentheses was deleted from provided transcript.

(Chairman: Horses, pack outfits and so forth...

Marvin Sonosky: What would be the capital investment that you estimate?

Chairman: This I don't...in my estimation?

Marvin Sonosky: Yeah. How much would it take?

Chairman: Oh, it'd be....8 to at least $10,000.

Marvin Sonosky: Would you think it's a subterfuge; that it's Cook's money and that a, and that they're using Mr. Miller because he's a member of the tribe as a front to get the permit?

Alfred Ward: (?) Definitely...

Marvin Sonosky: My question is....

Alfred Ward: Definitely.)*

(OFF THE RECORD)

Ralphaelita Stump: And so when this happened, well, he asked me then, he said what's what's all the fuss up here. Well, I said there's no fuss. I said we just came up here to post our signs. And when we were on our way home, I said, the officers were here, stopped us and I said then this blockage of the, of the bridge. Well, when this happened, well, it seemed to me, was the attitude of everybody there, that we, the landowners, were the people that were in the wrong.

Alfred McAdams: Mr. Chairman.

*Note: All material within parentheses was deleted from provided transcript.

Chairman: Mr. McAdams.

Alfred McAdams: I'd like to ask Mr. Hobbs and Mr. Keep, yesterday morning we had a meeting and I informed Mr. Hobbs to instruct Mr. Keep to go up there and advise the family here, the Bonatsie family, of their rights. And did he do this?

Ralphaelita Stump: I didn't hear that.

Alfred McAdams: Did Mr. Keep advise of your rights and, and your protection of.

Ralpahelita Stump: No.

Alfred McAdams: land there.

Ralphaelita Stump: No. Anyway when before we backed up, this little incident happened in which kind of bothered me. And I'm not a very petty person, at least I don't think I am. And we backed up and my brother, the boy there, which is Wayland Bonatsie, and Officer Ruleau were standing in the road and when Archie Keep backed up, I leaned over and I said, "Boys, move your piggies out of the way or he'll run over them." He said, "Watch the language." He said, "Don't be calling people pigs." I didn't say pigs, I said, "Move your piggies." If anybody knows what piggies are, they're your feet. And that was the thing that kind of set in the wrong with me, I don't go around calling people names. And in the meantime when we got to talking, this Heineman, my immediate family, and this Miller boy were walking around outside. They didn't know what was going on and I told Mr. Keep then that we weren't there to cause any trouble whatsoever, we were just there

Ralphaelita Stump: posting our signs, minding our own business, and we were going home. But I said if you intend to keep us here I said, "We don't object because we don't live very far from here," I said, "We could stay all night if that's the case", so after he got to talking we got to visiting and we got to more or less kind of shooting the bull. And then he, Archie Keep, changed his, his attitude and he said, "Well," he said, "Are you people going to let these dining people that's going up here to dine through?" I said, "Well, I can't give you that answer," I said, "It's up to my family to decide. Beings that they're all landowners." So they talked it over among themselves and they said well under protest because there was no sign whatsoever that the law was there to protect our rights. It seemed to me and everybody else there that the protection was for the, Mr. Cook, Mr. Heineman, and the young Miller boy.

Marvin Sonosky: The Federal police officer suggested to you that: "Are you going to let these people through?"

Ralphaelita Stump: Yes, this is what he said..

Marvin Sonosky: He didn't suggest to them that this was private property?

Ralphaelita Stump: No.

Marvin Sonosky: And they had no business.

Helena Bonatsie: And he only took our names down.

Ralphaelita Stump: And on a piece of white tablet paper we all signed our names and on the bottom of that he wrote the attending officer's names and I was sitting in the car next to him in

Ralphaelita Stump: the seat when he did this. And if there's any paper stating that we signed anything for right-of-way or any other thing, it's completely out of order because we did not sign it. Those, that was only for protest and he said, Mr. Keep, said that he would testify to this if necessary.

Chairman: You were protesting?

Ralphaelita Stump: Yes.

Joe Engavo: Mr. Chairman.

Chairman: Mr. Engavo.

Joe Engavo: Yesterday in our Fish and Game meeting, well, just before it started, Helena called and told me what they intended to do. And this is to go up and post signs and, and block the right-of-way to the roads that's going up there and I told her to go ahead and do whatever she felt necessary, you know. And so I think the Fish and Game Committee that was here could also verify me telling Mr. Hobbs that he should do something about it, to go up there and protect, watch what happens, to protect the Indian people. And I, I, one of the remarks I made is that I suppose if anything happens, the Indian person would get cau, prosecuted for.

Clyde Hobbs: Mr. Chairman.

Chairman: Mr. Hobbs.

Clyde Hobbs: Might go on this a little bit and maybe Mr. Keep will, you know, say a little what he saw and what happened to. So we could get a little more broader picture but I had told Keep, you know, to send someone, you

Clyde Hobbs: know, to check this out. And before he left I got a call from Judge Miller and he said there might be a lot of trouble up there tonight and they ought to have a policeman up there. And he said I intend to issue a restraining order, have a restraining order issued on a paper so they won't interfere. And I said Judge, you're involved in this, I don't know how you can issue a restraining order when it's your own boy that's involved in it. And he said well, I'll see Judge Enos, Frank Enos, see if he'll do this. I then, I asked Keep to go down and talk to Lawrence Miller, the Judge, and also if Enos was there to explain, to Enos what was going on in case he you know, he may not have known what was going on. Enos called me later asking about this and I talked to him a little bit but he said that he had already been to the court and back. He didn't say whether he seen Archie or not but he said, "I wouldn't sign that." And I said, well, I think I'm relieved that you didn't because I don't think that it goes, it's, it's a sort of a thing that the Court of Indian offenses Judge can settle anyway. But then Archie did talk to me about what happened there and I think maybe if we could hear from Mr. Keep a little bit, Mr. Chairman, it might cover some of the things that happened, not only down at the Court but what his purpose was in going up to the Dry Creek Crossing, whether trespassing on these allotments.

Chairman: Keep, you care to say anything?

Archie Keep: Mr. Chairman. I don't know what happened at Court yesterday, I know that Mr. Denhardt was with Ben Miller and Mr. Cook. They was preparing an injunction or something of the sort. I never did find out

Archie Keep: the full facts of what it was. I know Mr. Enos didn't sign it. Last night I received a call from Mr. Cook about 6:30 that he figured there was going to be a bunch of trouble up there. Mr., Officer Ruleau was up there, he went ahead of me. My car ain't run so fast. And after I arrived there I contacted these people there. I always like to speak to the leader of the group before I get too involved. Like Mrs. Stump said, was a little petty thing, you know, this piggy business. But it did sound to me like pigs and I understand, you know, what little piggies are now, they're toes. We did talk about this, they was I believe, all the guests that were going up to Mr. Cook's had already been through except one and I'm not too sure about that. As there was some ranchers around there. She, there was no big noise or anything like this. They didn't raise their voice. There was no, they was objecting to these people going through. We was on Mr. Maytag's land I believe. There was a truck on the road I didn't understand, it was blocking traffic it could have been. They did move it when I came. Got it out of the way. They did register protest. I probably could have wrote all their names down that was there, but then instead of it....

Secretary's Note: (Changed tapes).

The Brown, I don't know what his name is, Mr. Ben Miller, and there was some fellow who was pretty well dressed came up and drove on. I don't know who he was. The road wasn't chained. I didn't observe the signs that they put up but Mrs. Stump said they was putting signs up.

Robert Harris, Sr.: Mr. Chairman, off the floor.

Chairman: Mr. Harris

Robert Harris, Sr.: My understanding of Mr. Keep went out on call from Mr. Cook, is that right?

Archie Keep: That's correct.

Robert Harris, Sr.: Statement.

Archie Keep: No.

Robert Harris, Sr.: Mr. Hobbs, when I left your office about three o'clock when you were going to find Keep, you never instructed him to go up. I understood then that you was going to go look for Keep. And I mentioned it to you then, if you recall, about what the duty of the police officers when they went up there were. And then you agreed to it.

Clyde Hobbs: Yes, I did. And I told Keep to send policemen up there and he said that's when he sent Ruleau up, you know, to, you know, to call them back if he needed other policemen, you know, that's why Ruleau was on his way up there, Ruleau was on his way. On his own I suppose and you sent Ruleau ahead, you know,

Archie Keep: Ruleau was gone.

Clyde Hobbs: and I told Judge Miller, you know, when he said that, you know, that they were going to put a restraining order, I told him that the police would be there for the purpose of seeing that that, if there was a chain across that road, that it not be removed. If the policemen would go over there and see that it was not removed. Now we couldn't have done that against the court order but there was no court order, you know, and that was the purpose of, of the policemen

Clyde Hobbs: being there is to see that, that they block that road that they be there to, to protect their rights. Now, I think it's well worth talking about this, you know, I'm now, I'm not saying that we did anything perfect but I think that we need to talk out what we were. One of the things that we were trying to do or I was trying to do and I, and I think the policeman's carrying out what I wanted, was to identify the, the intent of the feeling, you know, on this thing. Now the Bonatsies told me all along that they didn't want this through there but that the intent of that feeling was, did they chain that gate, you know, and say that you would not come through. And they restrained themselves from doing this. I think they had the right, you know, to chain the gate up. I told them that they had the right. And I told Judge Miller that they had the right. Whether I'm right or wrong I don't know, you know, Mr. Sonosky could go back to something else that we don't know what the Superintendent has but we had the right to go over and confiscate the alcohol, you know, at Mazurie's. Judge Kerr said I was right, you know, the regulations said I was to do that. Judge Kerr said the regulations would stand and that the Superintendent was right. The tenth circuit court said I was not right, you know. I mean this is what, you know, we don't know what the Courts would finally say but what we have today is that we protect the interest of those people that are being trespassed upon. At least I still do that.

Alfred Ward: Mr. Chairman.

Chairman: Mr. Ward.

Alfred Ward: It was there, what I can't quite understand

Alfred Ward: who told the trespassing public that they had no right on these people's land.

Ralphaelita Stump: Nobody told them that.

Alfred Ward: I mean, where would, where does this come in. I thought this would be the purpose of Law and Order being in this area was to inform the trespassing public that they had no right there. I recall that the Shoshone Business Council called in Mr. Hobbs a month ago or something like this, I don't remember the exact date and asked him that we were very concerned because we had members of the Shoshone Tribe that were being harassed in the Crowheart area, after we talked to Miss Helena Bonatsie. And Mr. Hobbs informed us at that time, that he would take every step possible to protect the tribal, these people in their rights. And I really don't believe this has been done.

Marvin Sonosky: I've been listening to all that stuff. The way it strikes me is that if I have a responsibility to the Indian people. And the Indian owners tell me that they don't want anybody across their land. And I say to them well chain it and then they didn't chain it so I don't have to do anything. How of, they may be afraid to chain it because they, if they chain it they could have invited trouble and they weren't getting any cooperative protection. But I think what the point that Alfred is making is that if that's true. And if you knew all of this. And these people advertise in the paper they're going to open up this Inn and everybody is invited to come. And you know that they got to go across their land of these people to get there. Then when he says to notify the public at least it could have been done is

Marvin Sonosky: call Mr. Cook and tell Mr. Cook now you are not going to cross over allotments. That's trust property and those people don't want you. And if you try to go across my police will be there to prevent it. So long as the allotment owners do not want that trespass. But that's not what happens, the saloon keeper calls up and says you better have your police down here, there's going to be trouble. And the police come on the scene prepared to quash the trouble that is being caused by the Indians, take down the names of all the Indians, whitemen, some of them doesn't even know their names, doesn't require them to sign a piece of paper. I, I can visualize that scene. I don't call that protecting the trust interest.

Helena Bonatsie: Mr. Chairman.

Chariman: Mrs.

Helena Bonatsie: I definitely called the police department in the morning. They did not respond to my call but they did to Mr. Cook.

Marvin Sonosky: Right, right.

Alfred McAdams: Mr. Chairman. I would like to ask Mr. Sonosky. There is a law and it's the Tribes have the right, have the power to prohibit the surge of off the reservation activity, activities by its members. And this law was passed in 1940, August 4, 1971 and June 30. There may have been an amendment to it in 1971. Are you familiar with it?

Marvin Sonosky: Law that prevents off reservation activities?

Alfred McAdams: Activities, yeh.

Marvin Sonosky: Off reservation?

Glen Wilkinson: I'm not familiar with it.

Marvin Sonosky: I want to add one more thing because I've had experience, experience on other reservations. When this sort of incident happens and it goes unattended, you are inviting trouble. I'm talking about AIM. Now one of the reasons AIM is a success on reservations and they have some successful chapters is because they get something done. When we have an incident happen on the reservation we have on the where, where in the saloon on a reservation they took an Indian man and woman, woman and, and, and took their clothes down and try to force sexual intercourse. A thing like that, nobody does anything, everybody sits and looks at it, now, AIM doesn't operate that way. Well, they march in a couple of hundred of them and they destroy the place. You invite that sort of thing when, when the governing body itself, and the Agency, doesn't take care of what has to be done. And believe me those police on those reservations where AIM is busy, don't like it. On one reservation there's a federal officer who has said to have a contract out on him and no other reservation wants him because they're afraid that if he comes the contract will follow. And he lives a life of jeopardy. Out here you've been able up to now to take care of yourselves. But this sort of thing can frustrate people when you see the saloon keeper getting all the attention and the protection. So that he can have his Grand Opening while the Indian allottees sit by and they get nothing, it's disgusting.

Alfred Ward: Mr. Chairman.

Chairman: Mr. Ward.

Alfred Ward: I believe that the Joint Business Council should support any action that is necessary to require that the Bureau of Indian Affairs under the trust responsibility and get the Tribal attorneys involved and make sure that these people's rights are protected. I can't see any other way to go with it.

Marvin Sonosky: There, there's several ways it can be done, but I, we could bring a suit, we could bring the suit now, to, to enjoin the use of that road on behalf of these people not in the Tribes' name. We could bring a suit to, to endeavor to close him down because he's going to get closed down in my opinion. There's no question about what the Supreme Court's going to do when they didn't take that case to affirm it. Whether that would be an appropriate thing to do now. But I don't see why the Tribe has to be put to that kind of expense. Is to have the lawyers go in and bring civil suit which will cost the Tribe money. When all the power sits right in the hands of the Agency. Federal statutes, regulations, and the money and the authority is there.

Alfred Ward: Well, I think we should.

Marvin Sonosky: All you got to have is somebody who's willing to perform his duty I just don't think it's that the Tribes should have to ask the attorneys and pay that kind of money.

Alfred Ward: Well, true, definitely, I agree with this but there's got to be force put on the Bureau, excuse me.

Robert Harris, Sr.: Mr. Chairman. I, I agree that there should be action taken, but not just a motion and forget about it.

Alfred Ward: That's true.

Robert Harris, Sr.: As I understand it, April 8, you had a memorandum from the attorneys posing some questions in setting up this. What carry up is made of this recommendum, or this memorandum?

Chairman: What does this pertain to? I don't recall it.

Marvin Sonosky: Same thing.

Glen Wilikinson: Same thing.

Robert Harris, Sr.: The very same thing, April the 8th. I want to know what carry-up was made, what follow-up was made of that memorandum. There's a copy to the secretaries, copy to

Marvin Sonosky: A copy to the Superintendent, Hobbs.

Clyde Hobbs: No.

Robert Harris, Sr: A copy to the Superintendent and a copy to the Area Office.

Clyde Hobbs: You mean on this right-of-way for Cook?

Robert Harris, Sr.: Yes.

Glen Wilkinson: Bonatsie land.

Alfred Ward: Yeah.

Robert Harris, Sr.: This is a Memorandum No. 40-74. It's dated April the 8th, 1974. It's to the Shoshone Business Council from Marvin J. Sonosky, General Council Subject: Right-of-way to Dry Creek Lodge.

Robert Harris, Sr.: ("Following my conversation with Chr. McAdams, I received the secretary's letter of March the 20th, 1974, send along a copy of the letter dated March the 13th, 1974 from Attorney Hursh regarding the individual Indians. Does Mr. Cook require this right-of-way order to reach a place where he intends to operate a liquor establishment without a tribal license? If so, I certainly recommend that no co-operation be offered his efforts. The individual Indians should refuse to grant a right-of-way. There is no basis on which Mr. Cook can force them)* to grant a right-of-way. I am also interested in the nature of the proceeding in the Tribal Court referred to in Attorney Hursh's letter of March 13, 1974. What motivated the Tribal Court to set down such a proceeding and issue notice? What is there in our Tribal Court which authorizes such action?

Respectfully submitted,

Marvin J. Sonosky"

Dated April 8th. A copy to each member of the Shoshone Business Council. A copy to Miss Barbara Roberts, Tribal Secretary. A copy to Clyde Hobbs, Supt., and a copy to James F. Canan, Area Director. I want to know what follow-up was made on it. You're talking about resolutions, you're talking about helping. What have you did on this matter?

Alfred McAdams: I mentioned this to Mr. Hobbs and he was going to reply to this question.

*Note: All material within parentheses was deleted from provided transcript.

Marvin Sonosky: Was that a proceeding before Judge Miller?

Clyde Hobbs: It was not a proceeding but it was intended to be a proceeding.

Marvin Sonosky: This outside attorney got the Judge to issue an order citing these people to come to Court.

Clyde Hobbs: He asked the Judge to do that, you know, and as I read that memorandum, and I did see it. In times because, about that time that this letter went out, you know, Lawrence Miller called me and he said that there's going to be a meeting at Al Cook's. Dry Creek Lodge, I should say. And that he was thinking about issuing an order for all those involved to be present at that meeting. And I said. well, what case do you have in front of you that gives you the authority to issue this kind of an order? And he said, I don't have any case and he said I'm glad I talked to you about this. And there were no orders issued but that letter did imply that there was going to be an order issued and there was an intent for on the part of, Al Cook and his attorney to get Judge Miller to issue such an order. He never did issue it.

Archie Keep: The lawyer wrote the letter but the Judge never issued it.

Clyde Hobbs: That's right. That doesn't resolve all the rest of the things but that one did not materialize.

Archie Keep: The lawyer didn't. he never did issue the order, that I know of.

Alfred Ward: Mr. Chairman.

Chairman: Mr. Ward.

Alfred Ward: I would like to make one comment that this question that, what did the Shoshone Business Council do in reference to this memorandum. I don't think we made proper follow-up because we referred, kept referring to the Bureau of Indian Affairs and their trust responsibility and we never properly followed it up because we felt that Mr. Hobbs under his obligation to these enrolled members of the Shoshone Tribe would carry out his obligation and I guess that would be our neglect for not following it because we did ask what he was doing.

Ralphaelita Stump: Mr. Chairman.

Chairman: Mrs. Stump.

Ralphaelita Stump: I have one question, one question that I'd like answered here due to the fact that there is a couple of attorneys here present, and my question is this. When Mr. Cook employs some Tribal members, his intention is to use these Tribal members to make us do what he wants us to do. And I think that if I employed the whole Reservation, I wouldn't expect a thing from the Reservation in return for my employing these people and I don't think that it's our business or our right-or what have you to give Mr. Cook a right-of-way through there just because there's some enrolled members working for him.

Chairman: I think this is what I told Mr. Cook on April the 17th.

Ralphaelita Stump: Well, this is the lever he's been using. And he sent my own cousin down to ask for a right-of-way for him, at my home.

Chairman: This was brought out and then he denied it.

Joe Engavo: Mr. Chairman.

Chairman: Mr. Engavo.

Joe Engavo: I think Mr. Hobbs was called in on this matter too and they were informed to go and have this stopped, cause these people don't have that right to be doing this, you know, and I don't recall any follow-up at no follow-up, as far as I, I was concerned.

Clyde Hobbs: Mr. Chairman.

Chairman: Mr. Hobbs.

Clyde Hobbs: The time Ben Miller and John Guina came here and appeared before the Council, there was several of the things said that I can't recall but one of them was, do we have the right to go back and forth to our place of employment? The answer from the Council was that we're not interfering with your rights, we're talking about what what Al Cook's doing, and I think this is what you're talking about now, I believe. We have a fine point here, you know, that up to now we've not discussed. The right of a member to go back and forth to work, you know, and I think that this is a.. the Bonatsies all along have been trying to get along on this matter, you know, I'd like to, I'd like to, you know, have it known that I understand this, and they've been trying to get the Bureau of Indian Affairs to give them protection in what they wanted. They've been trying to sort out between what has been traditional the people who run back and forth to their homes and what is not traditional in running a business, and it's clear to me what they're

Clyde Hobbs: talking about and they would prefer, I think, they did till now anyway, not interfere with what has been custom, you know but the custom now has been used to their disadvantage, to open a business and and claim that they're still using the traditional thing that the members are going back and forth through these allotments and, and they have that right because, you know, it's been established and this sort of thing. This has been the discussion, it was in discussion in front of the Council the other day.

Marvin Sonosky: Well, you know, that has, really has nothing to do with it. You own a piece of land, it's yours. If you want to permit people to cross your land because you like them, or your friends, or it doesn't bother you. Then you would do that if a guy's got to cross your land to go to some next farm to work or something of that manner. We're talking about a saloon. We're talking about drunks going back and, back through there driving their cars through and you've got your families and you kids. That's what they don't want and that's what you owe them something for. You have got to get that, go over there and put that chain across and post a policeman and notify Mr. Cook that that is going to be that way. Mr. Cook is preparing a bed of thorns for himself because the day will come, as sure as we're sitting here, when he's going to show up here for a license, either in his name or a dummy's name to run a saloon at that place, and he's going to have to get it from this Council. He's not going to get very much of a reception here, so I'm confident that that will be cured that way. There's no reason why these people aren't entitled that, that the more than all this conversation has indicated in getting from the United States.

Irving Bonatsie: Mr. Chairman, I have a comment and a question. In, while attending college, I attended executive training courses and in these courses, we were taught to nip something like this in the bud, something established, like a business. The time to do it is to do it before it becomes an established business and that means before the Grand Opening. Alright. Last night Mr. Cook had his Grand Opening, with the help of the BIA, the Law and Order and the Shoshone Council. Simply because they did not lift a hand and each one were shifting the, the problem back and forth, back and forth. Now, what is going to be done now is what we want to know.

Chairman: What do you want done?

Irving Bonatsie: Well, as

Chairman: Do you want

Irving Bonatsie: far as we can see it, is we don't want any kind of right-of-way given or easement or whatever.

Chairman: Do you want people that are not ranchers or have any business back in there prohibited from trespassing your property?

Irving Bonatsie: Yes.

Helena Bonatsie: Mr. Chairman. We're talking about Mr. Cook.

Chairman: That's right.

Helena Bonatsie: We're, we're not talking about the ranchers that live around there. They've given us a lot of respect and we give them the same in return, but this is involving Mr. Cook and that's who we're talking about.

Chairman: This is what I'm trying to get at. He's going to have numerous guests.

Helena Bonatsie: It's his problem if he can't get out of there, is what I'm trying to say. He's going to have to invest in a helicopter to get out of there because we are not going to give him an easement or a right-of-way and we want you to know that and everybody else here.

Chairman: Well, this is your privilege in this. By the way, on the Council, I'm intending to resign. If I'd stay on, I'm going to see, or try to see that your wishes are upheld. Mr. Harris.

Robert Harris, Sr.: This might go back a little bit further, you know, I, I know these people. They're my people. I know that they're fair people. But, prior to all of this, they attempted to get a right-of-way for a ditch... (and for water. And Cook would not agree that they could have even any access across his land in any way for the ditch.) Well, I don't know what it's...against the law... have no obligation, no way in the world. These trust allotments. The only time you can condemn and convey title to these allotments is Congress. You have your own Indian Court sitting down, sticking their nose into a matter that they have no more business of entering into than anything in the world. You have the policeman going up. I've no personal feelings against him. I certainly don't like the way this was handled. I feel that, first, his statement to her in regards to pigs and everything, whether it was a mistake or not, was planned, an attempt from right off the start to cow the Indians down. A mention that AIM members was here. These are not AIM members. These are property owners who have a

Robert Harris, Sr.: property right if anybody has a property right, they have. What is this Business Council going to do when Cook comes, when Cook comes in here for access to the Reservation to take his fishermen, his pack trips, his scenic views. What are you going to do, turn the reservation over to him?

Chairman: I can't assure him

Robert Harris, Sr.: How in the hell are you going to protect this Reservation from enroachment upon Whitemen, or are you going to sit here and take a painless termination while they take over your lands and everything else because they're good guys? And you think you've a bunch of Indians that would rather put their trust in a whiteman because he's got a little bit of money and he can give them. What does he expect when he walks in here? He walks. He expects Manhatten. Very same thing going on. A long time ago, the Indians gave their reservation away for hatchets, beans and everything else. Look at what's going on here. You're giving it away right now for a bunch of damn petty jobs.

Wayne Yourick: Mr. Chairman, I have my mother sitting here. She owns over half of an allotment and she can't lease it. She wants to use it, but now we got a whiteman in there with 150 head of cattle. That's the same story. If you don't stop them someplace, they just keep going. If you're going to give the Reservation to the whiteman, give it to him, but I say no. I want to keep my part.

Chairman: I think I asked the Realty officer to cancel that lease that he had drawn to cancel it.

Wayne Yourick: ....cancellation and Mr. Hobbs. I've been

Wayne Yourick: over here time after time. We asked them to write letters and do this and nothing was ever done.

Alfred McAdams: Well, Mr. Chairman.

Ralphaelita Stump: Mr. Chairman.

Alfred McAdams: Go ahead.

Ralphelita Stump: I have one other question I'd like to ask and, bring it before the Council here and the people that's involved. Yesterday, when this business of the right-of-way came up, we were informed by Mr. Keep that the man that we leased our property to gave a right-of-way to Mr. Cook after he'd leased this property.

Chairman: I don't think he had that right.

Alfred McAdams: Mr. Chairman. He can't do this.

Ralphaelita Stump: Didn't you say that he had gave a letter?

Archie Keep: I understoood that there was a letter out that gave Mr. Cook this whoever you leased this to, the right for him to cross there. This is Mr..... I never seen the letter. I just, I heard this.

Chairman: He might have gave a letter that he didn't object if the Bonatsies didn't.

Robert Harris, Sr.: Again you're talking about a right-of-way.

Chairman: That's right.

Clyde Hobbs: I think the right-of-way can only be granted by the owners.

Alfred Ward: Mr. Chairman

Chairman: Mr. Ward.

Alfred Ward: After, this situation has been up and down, I would like to ask Mr. Hobbs what he intends to do. As a member of the Shoshone Business Council and I feel that I'm asking on behalf of these Tribal members. Are you going to enforce the law?

Clyde Hobbs: Mr. Chairman.

Chairman: Mr. Hobbs.

Clyde Hobbs: That's rather easy to answer. I can answer yes. We have enforced the law, you know, but specifically the Council, to yet, has not said what their position was on this, so we're working with the Bonatsies, you know, I mean if the Council want to do anything about this or not. That's the question that has not been answered by the Council at any time. We are working with the Bonatsies.

Alfred Ward: I have to disagree with that. My understanding of what has been interpreted when we first met with you a month or so ago, when this first started and Mrs. Helena Bonatsie came in and met with us. We called you into the Shoshone Chambers and discussed with you, what right this man had to take advantage of these people and you expressed your trust responsibility, you told us what you were obligated under law to do. Now you haven't done this, and the incident that happened yesterday or any other incident cannot point that you have protected these people's rights, and it's immaterial whether the Business Council get involved. We're talking about them first, then the Tribal Council, we're supporting our action, and I don't

Alfred Ward: believe you've taken care of your responsibility.

Marvin Sonosky: Is there any Tribal land in there?

Clyde Hobbs: In that way they go through, I don't believe so, you know, it hasn't been a question, the other, the alternative route was quite a bit of Tribal land. They were talking to the Council about coming through.

Joe Engavo: Mr. Chairman.

Chairman: Mr. Engavo.

Joe Engavo: This is also as Mr. Hobbs stated here, the intent of the Business Council doesn't seem to be nothing, you know, here the Business Council called you in or it was the Shoshone Council called you in that they were building an access to that place over Tribal land. We definitely instructed you to go up there and block that road and then you come back with, say, well, they got two members and these two members have rights, you know, and we still said that, block that road. And another thing that I would like to make a comment on is here the Business Council is supposed to be the governing body of Tribes here. We're making, Mr. Hobbs and his employees over there make us look like dummies, when we called him over here and we tried to get him to exercise his trust responsibility and the only time these people respond is like when Al Cook calls and Mr. Keep just verified that a while ago. He did not want to go up there until Al Cook called. That's all I have to say.

Archie Keep: Mr. Chairman.

Chairman: Mr. Keep.

Archie Keep: Maybe I can clarify this, maybe I'm wrong, but I did receive a call yesterday morning from Helena Bonatsie. My understanding was that she was coming in to see the Superintendent. I have no reason to lie. It was my, as far as I understood she didn't want to see me, she was coming in. I did respond to Mr. Cook's call. But as far as, as my understanding of her wanting me to come out there and see this, I did not understand this.

Helena Bonatsie: Mr. Chairman. I think I called Mr. Keep in the morning and I told him, I said, could you tell me who the Chief of Police is. He said we have none right now but the acting chief is a Miller. And I told him no, I didn't want a Miller because I said this involves a Miller, so he says well o.k. he said and I asked him who, who all are the officers. He said Ferris, who is in Casper and he won't be back until Monday. So I said oh. And then I says who else, and he says I am. And I says who are you. He says Archie Keep. So I says oh, I says well, what I'm interested in is in, is in some officer coming out to Burris, I said because, I said we're having problems on a right-of-way. I told him. So he says, he says o.k., he says I'll call Mr. Hobbs and I said well, I'm going to go down to see Hobbs later on today. That was yesterday. So then he says and then I said this is Burris now. He says o.k., o.k. So then that was all that was said. And then right after I called him, well I got on the phone, I asked him if is Mr. Hobbs in now. Yes he is in right now. So then, I got I, I hung up the phone and I called Hobbs and then they told, they said whoever answered the phone said he was in session

Helena Bonatsie: over here. And so I said oh, o.k., thank you, and then I hung up again. This is when I called Joe and I knew for a fact that I'd just be sitting in the lobby two or three hours, wasting my time, while I could have been doing something else, because I knew he would be in here meeting all this time, see and this has happened to me several times.

Irving Bonatsie: Mr. Chairman.

Chairman: You through, Mrs. Bonatsie?

Helena Bonatsie: Yes.

Irving Bonatsie: In her telephone conversation with Mr. Keep when she called, she made sure she asked the question to Mr. Keep, do I have to be down there in person to file a complaint for a cop to come up to Burris and his reply was no, you do not have to. Whereby, at that moment she turned around and told him well, I'll be down there later to see Mr. Hobbs. Where now he says she, she said that she'd be down to see him or down to the Agency.

Joe Engavo: Mr. Chairman. I think one other thing, point that I was trying to, to bring out is when I made the comment that Mr. Keep only responded when Al Cook called. This isn't the only time, you know, that this type of response was shown by BIA. There's alot of times when these people come in there and negotiate several leases and whatever, right in BIA office and never inform the Business Council. And I certainly feel that Mr. Hobbs should at least have the courtesy to come over here and inform what the Business Council what's going on.

Clyde Hobbs: Mr. Chairman.

Chairman: Mr. Hobbs.

Clyde Hobbs: Does the Joint Business Council want us to prohibit any further work on that road?

Joe Engavo: Yes, Mr. Chairman, I'll move.

Chairman: How's that? The one at.

Clyde Hobbs: The one that, you know, developing that's going up in toward the mountain or going out on the Tribal land anywhere. Do you want us to stop any, any

Chairman: Yes. What's the wishes of the Council in this Tribal road that the two members are constructing?

Joe Engavo: Well, Mr. Chairman. I think people that request, that have range units up here have to come get permission. I can't see where this guy has even the right to. I don't know. I don't understand you Mr. Hobbs.

Marvin Sonosky: What, what Tribal land is this?

Joe Engavo: This is coming in from back of Stoll's and, and from Bob's creek side.

Helena Bonatsie: Over a range unit, over a range unit.

Joe Engavo: Over a range unit.

Marvin Sonosky: Is Cook staying up there?

Helena Bonatsie: Right.

Joe Engavo: Yes.

Marvin Sonosky: Well, then, that's what you're talking about.

Joe Engavo: Mr. Chairman, I move.

Robert Harris, Sr.: Has he applied?

Joe Engavo: No, he hasn't applied.

Alfred Ward: Mr. Hobbs has just now told us that Tribal members can build a road.

Clyde Hobbs: No, I didn't say that.

Alfred Ward: That was the impression that I got the day that Mr. Miller and them was in here, that a Tribal member had this right to go and construct a road or improve a trail and that's the way we all understood it, Mr. Hobbs.

Clyde Hobbs: I believe that you were listening to Ben Miller and John Guina tell you that they had that right and I never, it was implied that the Council didn't think they had that right, I understood that, but there was no action, Mr. Chairman, and I would appreciate, you know, just something, formal action, so we could say that the Council, in meeting, said that they wanted that stopped so.

Alfred Ward: Alright.

Clyde Hobbs: This was made.

Marvin Sonosky: As I understand that is somebody is unlawfully trespassing, doing damage to property, going out without any right and building on somebody else's land, that you won't do anything about that until you get affirmative action saying do something. Do your duty and protect this property. I just don't see that.

Clyde Hobbs: I'll tell you why I did that is because I

Clyde Hobbs: caused those people to come before the Council for that purpose so the Council could say that they did or did not want them and it was implied in the conversation as it is being done today, but it wasn't an action. They owned the land, Mr. Sonosky.

Marvin Sonosky: It should be the other way around. Those people should come before the Council and get permission to do it. Without permission they can't do it. That's the way it should go.

Clyde Hobbs: O.k.

Alfred Ward: Wasn't there a motion Mr. Hobbs, that day? I made the motion that day that these people no longer could do that. Evidently, it was misunderstood by everyone, but we voted on it.

Chairman: It's been moved by Mr. Engavo that Mr. Hobbs be instructed to have the construction of the road going into Al Cook's Dry Creek Lodge be stopped immediately. Is there a second?

Alfred Ward: Second.

Chairman: Second by Mr. Ward. You've all heard the motion, are you ready for the question?

Clyde Hobbs: Any road, Mr. Chairman, could I stop here? You talk about any development, any development of road in that area. See, this isn't a road going into Al Cook's This is a road going from Al Cook's up into the mountains for packers and outfitters.

Alfred Ward: No, well then that's another road. The road we discussed the other day is going up past Hagerson's and going across so that these

Alfred Ward: people can bypass Bonatsies land to get in there and that's the one we discussed the other day, now we have another road.

Clyde Hobbs: They're not building that road. They are not working on that road. They're working on another road.

Alfred Ward: Because that's the road that I was referring to is that we made a motion that they stop construction of that because no Tribal member can go on their own and improve a trail or construct a road without coming to the soverign power which is the Business Council.

Marvin Sonosky: May I make a suggestion? It seems to me that so that the Agency won't be under any misunderstanding of who's who, that you adopt a resolution providing that Be it resolved, that no road shall be constructed across Tribal land without the consent of the Tribe first obtained in writing and further provided that any road now under construction by anyone on Tribal land shall immediately be halted, such construction work shall immediately be halted, and such persons immediately notified that no further work be done without prior permission from the Joint Business Council obtained in writing.

Chairman: Do you want to amend your motion?

Joe Engavo: Oh, Mr. Chairman. Either reconsider it and maybe putting this language into the motion. Amending it, I guess.

Chairman: Mr. Engavo has amended his motion to have a resolution drafted and that these people be notified immediately after action is taken. Is there a second?

Alfred Ward: I second that.

Chairman: Second by Mr. Ward, you've all heard the motion, are you ready for the question? All in favor of the motion, signify by raising your right hand. Four Shoshones and five Arapahoes voting for the question. Motion is carried.

Ernest Hanway: Mr. Chairman, in the meantime, for Mr. Cook and other people trespassing through these individual allotments, I believe the allottees don't want no trespass through there, just to the people that they know. I believe Mr. Hobbs should more or less enforce that, which he's been instructed once before to do so. And let's have him follow through on some of the recommendations that the Business Council has instructed him to do. I mean this would be understood amongst the allottees along with the Joint Council.

Chairman: Mr. Hobbs, would you, can you instruct Mr. Cook that he's to stay off of these people's allotments? That the Council supports them on their actions.

Ralphaelita Stump: Mr. Chairman.

Chairman: Mrs. Stump.

Ralphaelita Stump: We were just discussing this a minute ago and I think that my sister and the rest are all in agreement that they want this gate chained. I would like to have somebody else, possibly an officer, go up and do the chaining due to the fact that we don't want to cause any more problems and we don't want to be implicated in any instigation whatsoever, in causing any problems. So we'd like the officers to go up and chain the gate.

Chairman: Do you want to chain everybody out or do you want your neighbors to go back and forth?

Ralphaelita Stump: This is only one place and that's Mr. Cook's.

Marvin Sonosky: Mr. Chairman, maybe that could be done in the form of a resolution too. It could be something like Whereas, (Dry Creek Lodge had opened up a liquor establishment without a Tribal license in violation of the Federal law in such case provided)* Whereas, there was no access to the land in which Dry Creek Inn was located except across trust allotments, and Whereas, the owners of the trust allotments have repeatedly made it clear that they do not wish any traffic of any kind to or from the Dry Creek Inn to cross their trust allotments and Whereas, this has been brought to the attention of the Wind River Indian Agency, and Whereas, in spite of these requests, the Grand Opening of the Dry Creek Lodge took place on Friday, May 17, 1974, without any advance notice to the Dry Creek Lodge that it was the wishes of the allotment owners that traffic of any kind to or from that Lodge cross their allotments and Whereas, the allotment owners have appeared before the Joint Business Council in the presence of the Superintendent and the Federal Officer and have discussed this matter, and Whereas, they have expressed their wish that the entrance to the access across their allotments be chained by the Wind River Indian Agency and that written and oral notice be delivered to the Country Inn Lodge.

Chairman: Dry Creek Lodge.

*Note: All material within parentheses was deleted from provided transcript.

Marvin Sonosky: Huh?

Chairman: Dry Creek Lodge.

Marvin Sonosky: Dry Creek Lodge, that the chain would be maintained by the police force of the Wind River Indian Agency, and that a, and be it further resolved that a police car be maintained for a reasonable period to insure that the chain and prevention of access for traffic to and from the Dry Creek Lodge is prevented. I don't know if I gave you if I got it all in the Whereases, and the now therefores.

Alfred McAdams: I move, Mr. Chairman, to support this resolution.

Chairman: It's been moved by Mr. McAdams that the Joint Business Council will support the resolution in behalf of the Bonatsies, and asking Mr. Hobbs to carry out the instructions, is there a second?

John Warren: I second it.

Chairman: Second by Mr. Warren, you've all heard the motion, are you ready for the question? All in favor of the motion, signify by raising your right hand. Opposed? Five Arapahoes and four Shoshones. Voting for the question, motion's carried. Chairman not voting. Is that all you have? How soon can you get the chain up there Mr. Hobbs?

Marvin Sonosky: Close the Saturday night business.

Clyde Hobbs: How soon can you get me that resolution?

Ernest Hanway: Get it today, just have it typed off and have the two chairman's to sign it.

Marvin Sonosky: Now, do you think that the action has to wait on a paper or.

Clyde Hobbs: Not necessarily.

Marvin Sonosky: Do you want to show them this?

Clyde Hobbs: I wanted it, and the other thing, I want to make sure we notified Dick Thomas, you know, the U. S. attorney, that we're going to do this. But I would say it would probably be Monday evening, you know, if you wanted time.

Marvin Sonosky: Now, you'll let him have his Saturday night business, then?

Helena Bonatsie: Mr. Chairman, what we're trying to get to is stop his establishment before it is established and this is what we're trying to talk about and we want it stopped now, this moment if possible. Not, not who knows, look what Hobbs has been doing. We've been coming to him everyday, I mean most everytime we come up with this thing and he's been sitting here doing nothing. Who knows, he might, he might not do that. Monday night he might not do it, next week, it will go on and on.

Marvin Sonosky: Well, you might call the United States Attorney and the United States Attorney might want to think about it.

Helena Bonatsie: Yes.

Alfred Ward: This is the intent, I think.

Marvin Sonosky: Well, the land owner has the right to do this on his own land. It doesn't take the United States Attorney to do it.

Clyde Hobbs: That's right.

Marvin Sonosky: Close the door to my house, there's no difference between the door to my house and putting a chain across my driveway. It's mine and I don't have to go to the United States Attorney to do it. No. All we're asking, asking you to do is protect them in that right.

Clyde Hobbs: This is correct but you ask me to put the chain there, you know, this is different. I told the Bonatsies all along they had the right to chain this. But now you're asking that we, to put the chain there and I, you know, we carry out the law under the U.S. Attorney.

Marvin Sonosky: Alright, to me it wouldn't make any difference if the Bonatsies put the chain there in your presence, they want protection.

Clyde Hobbs: I know they do and I intend to do that, but if we carry out.

Marvin Sonosky: Two neighbors with rifles standing by, then they put up a chain.

Chairman: Do you folks have a chain long enough to chain that off?

Ralphaelita Stump: I doubt it.

Chairman: Ropes or anything?

Clyde Hobbs: I would expect that we'd use a wire cable, you know, if we're going to use, you know, if we're going to chain that. I was thinking that we'd use wire cable with a padlock.

Chairman: I was going to say, do you have anything

Chairman: that you can put across there, put it across, then we can send these police up to maintain it. Barbed wire or anything you have.

Marvin Sonosky: You got to have a police there to protect them.

Clyde Hobbs: After I have the policeman to protect them, then I would like to notify the U.S. Attorney because we carry out the law, as you know, Mr. Chairman, under the direction of the U.S. Attorney and we'd like to do exactly what these people would want to do tonight. But if the U.S. Attorney would tell me Monday that, you know, we better not say what did Dick Thomas say, you know, I mean, you know, this is what we're talking about.

Alfred Ward: Mr. Chairman, I can't quite, if they have the right to protect their property and you have the trust responsibility to help them protect their property. I think that the U.S. Attorney, if says no, you still haven't done anything wrong, have you? I mean, what would what would be the fear of protecting these people's rights and having policemen there to say this. And if the U.S. Attorney says you shouldn't do it, well, fine. We're with the U.S. Attorney, but we're protecting these people's rights today.

Marvin Sonosky: I have a suggestion. Are these Tribal policemen?

Clyde Hobbs: There's no Tribal policemen here, they're all Federal policemen.

Marvin Sonosky: They're all Federal.

Clyde Hobbs: Yes, they are. Tribes don't contract for

Clyde Hobbs: anything here. We run this just like we run the Welfare Program or anything else.

Marvin Sonosky: Because if these were Tribal policemen, you could send them out yourself.

Joe Engavo: How about the Game Wardens? It seems like they have the same authority to arrest them.

Alfred Ward: We could put the Game Wardens up there.

Clyde Hobbs: I wouldn't send a Game Warden.

Alfred Ward: They don't have much authority, but.

Joe Engavo: Yeah, that's right, their under the direct technical supervision of, of Keep and Hobbs.

Marvin Sonosky: I have one other suggestion Mr. Wilkinson, why the United States Attorney, why not your area office?

Clyde Hobbs: We could check that out.

Glen Wilkinson: If you go to the United States Attorney, this would probably be a month or never. He may want.

Alfred Ward: Well, look how many.

Glen Wilkinson: To send somebody down to look the situation over.

Alfred Ward: It took us for how many years to get a trespassing case against Mr. Meeks and then when he finally sold his cattle out, the cattle and all, and was out of the business, well, then we weren't able to collect the full amount because he quit doing his trespassing, we collected maybe half of this. I

Alfred Ward: mean during the course of time he ate up the grass.

Chairman: Mr. Hobbs, if they spread wire and things up there, would you send one of your police to maintain it?

Clyde Hobbs: Yes sir, I would.

Ralphaelita Stump: But would they be with us.

Clyde Hobbs: Ralphaelita, I think they would. I don't think they'd have doubt as to, you know, I know you are, you know, are, you know, coming there most of the night and day. I really, confident you don't have any doubt but what I intend to do and it was maybe slower than you want, to protect your rights, and the police work for me and I would intend that they would protect your rights and, and, and I have well, the Courts have said we'll, I have no reason to lie. If I didn't think it was right I, I might intend to lose in. . . . . .I think you're right that you could put a bar across that gate and to maintain it. Now that doesn't mean he can't come through there and cut it and a day after that there insues an argument, you know, about what we're talking about. But, I intend that we enforce your, you know, the, the rights you have. I have, you know, I'm getting older every day and I'm not you know, as impetuous as, you know, as quick to react as I was at one time. And I don't feel that I want to go out here. Some people when they're in trouble, they think that the Superintendent have all kinds of powers and other times, when they don't like, I don't have any power but I try to get somewhere in between that, you know, and I have acted rather spontaneously on some things and I've gotten a-

Clyde Hobbs: way with it. You know, I don't know how many times I can get away with acting spontaneously on the things that we sit here and say are right, you know. I need some other advice to decide this is it.

Chairman: So they barricade it tonight, then you will have the police there.

Clyde Hobbs: That's right. Now we've been dealing, in talking with the Bonatsies and they can tell us what they want, you know, on this thing. And we'll support what they want.

Marvin Sonosky: Well, two, two policemen out there and Bonatsies to barricade it tonight. Two policemen standing there and this is the way to do it, to bust that Saturday night business, got started.

Ralphaelita Stump: And if, if they want to come this evening, they can stop at the house and, and let us know that they're going up there and we will immediately follow them and put up the barricade or whatever. But we want them there to just for our protection and we don't want any shooting or, or anything of that nature. And we don't want to get anybody hurt, we don't want to get hurt and that's the reason we're asking for the officers to be there when we do this.

Marvin Sonosky: I would like to see it done that way for another reason is going to be any controversy and joined into any lawsuit. I'd like to see Mr. Cook bring them.

Chairman: So would I.

Marvin Sonosky: It come out much better.

Clyde Hobbs: Off the record a minute.

RESOLUTION
JOINT BUSINESS COUNCILS OF THE
SHOSHONE AND ARAPAHOE TRIBES
WIND RIVER RESERVATION
FORT WASHAKIE, WYOMING

Resolution No. 3415

WHEREAS, Dry Creek Lodge has opened up a business establishment, and

WHEREAS, There was no access to the land in which Dry Creek Lodge was located except to cross trust allotments, and

WHEREAS, The owners of the trust allotments have repeatedly made it clear that they do not wish any traffic of any kind to or from the Dry Creek Lodge across their trust allotments, and

WHEREAS, This has been brought to the attention of the Wind River Indian Agency, and

WHEREAS, In spite of these requests the Grand Opening of the Dry Creek Lodge took place on Friday, May 17, 1974, without any interference on the part of the Agency and without any advanced notice to Dry Creek Lodge that it was the wishes of the allotment owners that no traffic of any kind to or from that Lodge across their allotments, and

WHEREAS, The allotment owners have appeared before the Joint Business Council in the presence of the Superintendent and a Federal officer and have discussed this matter, and

WHEREAS, They have expressed a wish that the entrance to the access across their allotments be chained by the Wind River Indian Agency and that written and oral notice be delivered to the Dry Creek Lodge that the chain will be maintained by the police force of the Wind River Indian Agency, and

BE IT FURTHER RESOLVED, That a police car be maintained for a reasonable period to insure that the chain and prevention of access for traffic to and from the Dry Creek Lodge is prevented.

CERTIFICATION

WE, THE UNDERSIGNED, as Chairmen of the Joint Business Council of the Shoshone and Arapahoe Tribes, hereby certify that the Joint Business Council is composed of twelve (12) members, six (6) members of the Shoshone Tribe and six (6) members of the Arapahoe Tribe, of whom four (4) members of the Shoshone Tribe and six (6) members of the Arapahoe Tribe, constituting a quorum, were present at a meeting duly and regularly called, noticed, convened and held this 18th day of May, 1974; that the foregoing resolution was duly adopted by the affirmative vote of nine (9) members, Chairman not voting; and that the resolution has not been rescinded or amended in any way.

Done at Fort Washakie, Wyoming, this 18th day of May, 1974.

/s/ Alfred McAdams, Sr.
Alfred McAdams, Sr., Chairman
Shoshone Business Council

/s/ Jesse Miller
Jesse Miller, Chairman
Arapahoe Business Council

Resolution No. 3415